

Senate File 2296

SENATE FILE _____
BY COMMITTEE ON WAYS AND MEANS
(SUCCESSOR TO SSB 3167)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the policy administration of the tax and
2 related laws by the department of revenue, including
3 administration of and substantive changes to the state
4 individual income, corporate income, sales, use, property,
5 inheritance, motor fuel, special fuel, cigarette, and tobacco
6 taxes and including penalties.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
8 TLSB 6923SV 80
9 mg/pj/5

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1 1 Section 1. Section 15.335, subsection 4, unnumbered
1 2 paragraph 2, Code Supplement 2003, is amended to read as
1 3 follows:
1 4 For purposes of this section, "Internal Revenue Code" means
1 5 the Internal Revenue Code in effect on January 1, ~~2003~~ 2004.
1 6 Sec. 2. Section 15A.9, subsection 8, paragraph e,
1 7 unnumbered paragraph 2, Code Supplement 2003, is amended to
1 8 read as follows:
1 9 For purposes of this subsection, "Internal Revenue Code"
1 10 means the Internal Revenue Code in effect on January 1, ~~2003~~
1 11 2004.
1 12 Sec. 3. Section 421.1, subsection 4, Code Supplement 2003,
1 13 is amended by adding the following new unnumbered paragraph:
1 14 NEW UNNUMBERED PARAGRAPH. Judicial review of the decisions
1 15 or orders of the board resulting from the review of decisions
1 16 or orders of the director of revenue for assessment and
1 17 collection of taxes by the department may be sought by the
1 18 taxpayer or the director of revenue in accordance with the
1 19 terms of chapter 17A.
1 20 Sec. 4. Section 421.17, Code Supplement 2003, is amended
1 21 by adding the following new subsection:
1 22 NEW SUBSECTION. 28. To place on the department's official
1 23 website the official electronic state of Iowa voter
1 24 registration form and a link to the Iowa secretary of state's
1 25 official website.
1 26 Sec. 5. Section 421.17A, subsection 2, paragraph a, Code
1 27 Supplement 2003, is amended to read as follows:
1 28 a. Notwithstanding other statutory provisions which
1 29 provide for the execution, attachment, garnishment, or levy
1 30 against accounts, the facility may utilize the process
1 31 established in this section to collect delinquent accounts,
1 32 charges, fees, loans, taxes, or other indebtedness due the
1 33 state or being collected by the state provided that any
1 34 exemptions or exceptions which specifically apply to
1 35 enforcement of such obligations also apply to this section.
2 1 Administrative levy under this section is the equivalent of
2 2 condemning funds under chapter 642. It is expressly provided
2 3 that these remedies shall be cumulative and that no action
2 4 taken by the director or attorney general shall be construed
2 5 to be an election on the part of the state or any of its
2 6 officers, employees, or representatives to pursue any other
2 7 remedy provided by law.
2 8 Sec. 6. Section 421.17A, subsection 3, Code Supplement
2 9 2003, is amended to read as follows:
2 10 3. ~~INITIAL NOTICE OF INTENT TO OBLIGOR.~~ The facility may
2 11 proceed under this section only if twenty days' notice has
2 12 been provided ~~to the obligor~~ by regular mail to the last known
2 13 address of the obligor, notifying the obligor that the obligor
2 14 is subject to this section and of the facility's intention to
2 15 use the levy process. The facility shall give twenty days'
2 16 notice of its intention to use the levy process. The twenty-
2 17 day twenty days' notice period shall not be required if the
2 18 facility determines that the collection of past due amounts

2 19 would be jeopardized.

2 20 Sec. 7. Section 421.17A, subsection 5, paragraph c,
2 21 subparagraph (7), Code Supplement 2003, is amended to read as
2 22 follows:

2 23 (7) ~~A The telephone number, address, and contact name of~~
2 24 ~~the agent for the~~ facility initiating the action.

2 25 Sec. 8. Section 421.17A, subsection 6, Code Supplement
2 26 2003, is amended to read as follows:

2 27 6. ADMINISTRATIVE LEVY == NOTICE OF INITIATION OF ACTION
2 28 TO OBLIGOR AND OTHER ACCOUNT HOLDERS.

2 29 a. The facility may administratively initiate an action to
2 30 seize one or more accounts of an obligor who is subject to
2 31 this section and section 421.17, subsection 27.

2 32 b. The facility shall notify an obligor subject to this
2 33 section. The notice shall contain all of the following:

2 34 (1) The name and social security number of the obligor.

2 35 (2) A statement that the obligor is believed to have an
3 1 account at the financial institution.

3 2 (3) A statement that pursuant to the provisions of this
3 3 section, the obligor's account is subject to seizure and the
3 4 financial institution is authorized and required to forward
3 5 moneys to the facility.

3 6 (4) The maximum amount to be forwarded by the financial
3 7 institution, which shall not exceed the delinquent or accrued
3 8 amount of debt being collected by or owed to the state by the
3 9 obligor.

3 10 (5) The prescribed time frames the financial institution
3 11 must meet in forwarding any amounts.

3 12 (6) A statement that any challenge to the action must be
3 13 in writing and must be received by the facility within ten
3 14 days of the date of the notice to the obligor.

3 15 (7) The address of the facility and the account number
3 16 utilized by the facility for the obligor.

3 17 (8) ~~A The telephone number, address, and contact name of~~
3 18 ~~the agent for the~~ facility initiating the action.

3 19 c. The facility shall forward the notice of initiation of
3 20 action to the obligor by regular mail within two working days
3 21 of sending the notice to the financial institution pursuant to
3 22 subsection 5, paragraph "b".

3 23 d. The facility shall notify any other party known to have
3 24 an interest in the account. The notice shall contain all of
3 25 the following:

3 26 (1) The name of the obligor.

3 27 (2) The name of the financial institution.

3 28 (3) A statement that the account in which the other party
3 29 is known to have an interest is subject to seizure.

3 30 (4) A statement that any challenge to the action must be
3 31 in writing and must be received by the facility within ten
3 32 days of the date of the notice to the party known to have an
3 33 interest.

3 34 (5) The address of the facility and the name of the
3 35 obligor who also has an interest in the account.

4 1 (6) ~~A The telephone number, address, and contact name of~~
4 2 ~~the agent for the~~ facility initiating the action.

4 3 e. The facility shall forward the notice to the other
4 4 party known to have an interest by regular mail within two
4 5 working days of sending the notice to the financial
4 6 institution pursuant to subsection 5, paragraph "b".

4 7 Sec. 9. Section 421.17A, subsection 8, paragraphs b, c,
4 8 and f, Code Supplement 2003, are amended to read as follows:

4 9 b. The person challenging the action shall submit a
4 10 written challenge to the person identified as the ~~contact~~
4 11 agent for the facility in the notice, within ten days of the
4 12 date of the notice of initiation of the levy.

4 13 c. The facility, upon receipt of a written challenge,
4 14 shall review the facts of the ~~case~~ administrative levy with
4 15 the challenging party within ten days of receipt of the
4 16 challenge. If the challenging party is not available for the
4 17 review on the scheduled date, the review shall take place
4 18 without the challenging party being present. Information in
4 19 favor of the challenging party shall be considered by the
4 20 facility in the review. The facility may utilize additional
4 21 information if such information is available. Only a mistake
4 22 of fact, including, but not limited to, a mistake in the
4 23 identity of the obligor or a mistake in the amount owed to or
4 24 being collected by the state shall be considered as a reason
4 25 to dismiss or modify the action.

4 26 f. The challenging party shall have the right to file an
4 27 action for wrongful levy in district court within thirty days
4 28 of the date of the notice in paragraph "e", either in the
4 29 county where the obligor or the party known to have an

4 30 interest in the account resides or in Polk county where the
4 31 facility is located. Actions under this section are in equity
4 32 and not actions at law.

4 33 Sec. 10. Section 421.17A, subsection 8, Code Supplement
4 34 2003, is amended by adding the following new paragraphs:

4 35 NEW PARAGRAPH. g. Recovery under this section is limited
5 1 to restitution of the amount that has been wrongfully
5 2 encumbered or obtained by the department.

5 3 NEW PARAGRAPH. h. A challenge to an administrative action
5 4 under this subsection cannot be used to extend or reopen the
5 5 statute of limitations to protest other departmental actions
5 6 or to contest the amount or validity of the tax. Only issues
5 7 involving the levy can be raised in a challenge to an
5 8 administrative action under this subsection.

5 9 Sec. 11. Section 421.17B, subsection 2, paragraph a, Code
5 10 Supplement 2003, is amended to read as follows:

5 11 a. Notwithstanding other statutory provisions which
5 12 provide for the execution, attachment, garnishment, or levy
5 13 against accounts, the facility may utilize the process
5 14 established in this section to collect delinquent accounts,
5 15 charges, fees, loans, taxes, or other indebtedness due the
5 16 facility or being collected by the facility provided all
5 17 administrative remedies have been waived or exhausted by the
5 18 obligor. Any exemptions or exceptions which specifically
5 19 apply to enforcement of such obligations also apply to this
5 20 section. Administrative wage assignment under this section is
5 21 the equivalent of condemning funds under chapter 642. It is
5 22 expressly provided that these remedies shall be cumulative and
5 23 that no action taken by the director or the attorney general
5 24 shall be construed to be an election on the part of the state
5 25 or any of its officers or representatives to pursue any other
5 26 remedy provided by law.

5 27 ~~Administrative wage assignment under this section is the~~
5 28 ~~equivalent of condemning funds under chapter 642.~~

5 29 ~~The administrative wage assignment is to be considered an~~
5 30 ~~additional means of collection by the facility and not an~~
5 31 ~~exclusive means of collection. If the use of an~~
5 32 ~~administrative wage assignment is not successful in collecting~~
5 33 ~~an outstanding debt due the facility, the facility may use the~~
5 34 ~~collection provisions set forth in chapters 626 and 642.~~

5 35 Sec. 12. Section 421.17B, subsection 3, Code Supplement
6 1 2003, is amended to read as follows:

6 2 3. NOTICE OF INTENT TO THE OBLIGOR.

6 3 a. The facility may proceed under this section only if ~~a~~
6 4 ~~ten-day~~ twenty days' notice has been provided to the obligor.
6 5 ~~Notice by the facility may be~~ by regular mail to the last
6 6 known address of the obligor, notifying the obligor that the
6 7 obligor is subject to this section. If the facility
6 8 determines that collection of the debt may be in jeopardy, the
6 9 facility may request that the employer deliver notice of the
6 10 wage assignment simultaneous with the remainder of or in lieu
6 11 of the obligor's compensation due from the employer.

6 12 The facility may obtain one or more wage assignments of an
6 13 obligor who is subject to this section. If the obligor has
6 14 more than one employer, the facility may receive wage
6 15 assignments from one or ~~all~~ more of the employers until the
6 16 full debt obligation of the obligor is satisfied. If an
6 17 obligor has more than one employer, the facility shall give
6 18 notice to all employers ~~that the facility seeks to have an~~
6 19 ~~assignment of wages from whom an assignment is sought.~~

6 20 b. The notice from the facility to the obligor shall
6 21 contain all of the following:

6 22 (1) The name and social security number of the obligor.

6 23 (2) A statement that the obligor is believed to have
6 24 employment with the stated employer.

6 25 (3) A statement that pursuant to the provisions of this
6 26 section, the obligor's wages will be assigned to the facility
6 27 for payment of the specified debts and that the employer is
6 28 authorized and required to forward moneys to the facility.

6 29 (4) The maximum amount to be forwarded by the employer,
6 30 which shall not exceed the delinquent or accrued amount of
6 31 debt being collected by or owed to the facility by the
6 32 obligor.

6 33 (5) The prescribed time frames the employer must meet in
6 34 forwarding any amounts.

6 35 (6) A statement that any challenge to the action must be
7 1 in writing and must be received by the facility within ten
7 2 days of the date of the notice to the obligor.

7 3 (7) The address of the facility and the account number
7 4 utilized by the facility for the obligor.

7 5 (8) ~~A~~ The telephone number, ~~address, and contact name~~ of

7 6 the agent for the facility initiating the action.

7 7 Sec. 13. Section 421.17B, subsection 6, paragraph c,
7 8 subparagraph (7), Code Supplement 2003, is amended to read as
7 9 follows:

7 10 (7) ~~A The telephone number, address, and name of a contact~~
7 11 ~~person with the facility of the agent for the facility~~
7 12 ~~initiating the action.~~

7 13 Sec. 14. Section 421.17B, subsection 8, paragraphs a, b,
7 14 c, and f, Code Supplement 2003, are amended to read as
7 15 follows:

7 16 a. Challenges under this section may be initiated only by
7 17 an obligor. An administrative wage assignment only occurs
7 18 after the obligor has waived or exhausted administrative
7 19 remedies. Reviews by the facility of a challenge to an
7 20 administrative wage assignment are not subject to chapter 17A
7 21 ~~unless the challenge is regarding the validity of the~~
7 22 ~~assignment. Actions under this section are in equity and not~~
7 23 ~~actions at law.~~

7 24 b. The obligor challenging the administrative wage
7 25 assignment shall submit a written challenge to the person
7 26 identified as the contact agent for the facility in the
7 27 notice, within ten days of the date of the notice ~~to the~~
7 28 ~~obligor of initiation of the assignment.~~

7 29 c. The facility, upon receipt of a written challenge,
7 30 shall review the facts of the ~~case~~ administrative wage
7 31 assignment with the obligor within ten days of receipt of the
7 32 challenge. If the obligor is not available for the review on
7 33 the scheduled date, the review shall take place without the
7 34 obligor being present. Information in favor of the obligor
7 35 shall be considered by the facility in the review. The

8 1 facility may utilize additional information if such
8 2 information is available. Only a mistake of fact, including,
8 3 but not limited to, a mistake in the identity of the obligor
8 4 or a mistake in the amount owed to or being collected by the
8 5 facility shall be considered as a reason to dismiss or modify
8 6 the administrative wage assignment.

8 7 f. The obligor shall have the right to file an action for
8 8 wrongful assignment in district court within thirty days of
8 9 the date of the notice to the obligor, either in the county
8 10 where the obligor is located or in Polk county where the
8 11 facility is located. Actions under this section are in equity
8 12 and not actions at law.

8 13 Sec. 15. Section 421.17B, subsection 8, Code Supplement
8 14 2003, is amended by adding the following new paragraphs:

8 15 NEW PARAGRAPH. g. Recovery under this subsection is
8 16 limited to restitution of the amount that has been wrongfully
8 17 encumbered or obtained by the department.

8 18 NEW PARAGRAPH. h. A challenge to an administrative action
8 19 under this subsection cannot be used to extend or reopen the
8 20 statute of limitations to protest other departmental actions
8 21 or to contest the amount or validity of the tax. Only issues
8 22 involving the assignment can be raised in a challenge to an
8 23 administrative action under this subsection.

8 24 Sec. 16. Section 421.17B, subsection 9, unnumbered
8 25 paragraph 2, Code Supplement 2003, is amended to read as
8 26 follows:

8 27 Expiration Cessation of the wage assignment does not affect
8 28 the obligor's duties and liabilities respecting the wages
8 29 already withheld pursuant to the wage assignment.

8 30 Sec. 17. Section 422.10, subsection 3, unnumbered
8 31 paragraph 2, Code Supplement 2003, is amended to read as
8 32 follows:

8 33 For purposes of this section, "Internal Revenue Code" means
8 34 the Internal Revenue Code in effect on January 1, ~~2003~~ 2004.

8 35 Sec. 18. Section 422.33, subsection 5, paragraph d,
9 1 unnumbered paragraph 2, Code Supplement 2003, is amended to
9 2 read as follows:

9 3 For purposes of this subsection, "Internal Revenue Code"
9 4 means the Internal Revenue Code in effect on January 1, ~~2003~~
9 5 2004.

9 6 Sec. 19. Section 422.42, subsection 6, Code 2003, is
9 7 amended by adding the following new paragraph:

9 8 NEW PARAGRAPH. c. That trade discounts given or allowed
9 9 by manufacturers, distributors, or wholesalers to retailers or
9 10 by manufacturers or distributors to wholesalers and payments
9 11 made by manufacturers, distributors, or wholesalers directly
9 12 to retailers or by manufacturers or distributors to
9 13 wholesalers to reduce the sales price of the manufacturer's,
9 14 distributor's, or wholesaler's product or to promote the sale
9 15 or recognition of the manufacturer's, distributor's, or
9 16 wholesaler's product shall not be included if excessive sales

9 17 tax is not collected from the purchaser. This paragraph does
9 18 not apply to coupons issued by manufacturers, distributors, or
9 19 wholesalers to consumers.

9 20 Sec. 20. Section 422A.1, unnumbered paragraph 8, Code
9 21 Supplement 2003, is amended to read as follows:

9 22 The tax levied shall be in addition to any state sales tax
9 23 imposed under section 422.43. Section 422.25, subsection 4,
9 24 sections 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67,
9 25 422.68, 422.69, subsection 1, and sections 422.70 to 422.75,
9 26 consistent with the provisions of this chapter, apply with
9 27 respect to the taxes authorized under this chapter, in the
9 28 same manner and with the same effect as if the hotel and motel
9 29 taxes were retail sales taxes within the meaning of those
9 30 statutes. Notwithstanding this paragraph, the director shall
9 31 provide for quarterly filing of returns as prescribed in
9 32 section 422.51 and for other than quarterly filing of returns
9 33 as prescribed in section 422.51, subsection 2. The director
9 34 may require all persons, as defined in section 422.42, who are
9 35 engaged in the business of deriving gross receipts subject to
10 1 tax under this chapter, to register with the department. All
10 2 taxes collected under this chapter by a retailer or any
10 3 individual are deemed to be held in trust for the state of
10 4 Iowa and the local jurisdictions imposing the taxes.

10 5 Sec. 21. Section 422B.9, subsection 3, paragraph a, Code
10 6 Supplement 2003, is amended to read as follows:

10 7 a. The director, in consultation with local officials,
10 8 shall collect and account for a local sales and services tax.
10 9 The director shall certify each quarter the amount of local
10 10 sales and services tax receipts and any interest and penalties
10 11 to be credited to the "local sales and services tax fund"
10 12 established in the office of the treasurer of state. All
10 13 taxes collected under this chapter by a retailer or any
10 14 individual are deemed to be held in trust for the state of
10 15 Iowa and the local jurisdictions imposing the taxes.

10 16 Sec. 22. Section 423.1, subsection 47, paragraph b, as
10 17 enacted by 2003 Iowa Acts, First Extraordinary Session,
10 18 chapter 2, section 94, is amended by adding the following new
10 19 subparagraph:

10 20 NEW SUBPARAGRAPH. (5) Trade discounts given or allowed by
10 21 manufacturers, distributors, or wholesalers to retailers or by
10 22 manufacturers or distributors to wholesalers and payments made
10 23 by manufacturers, distributors, or wholesalers directly to
10 24 retailers or by manufacturers or distributors to wholesalers
10 25 to reduce the sales price of the manufacturer's, distributors,
10 26 or wholesaler's product or to promote the sale or recognition
10 27 of the manufacturer's, distributor's, or wholesaler's product.
10 28 This subparagraph does not apply to coupons issued by
10 29 manufacturers, distributors, or wholesalers to consumers.

10 30 Sec. 23. Section 423.1, subsection 47, as enacted by 2003
10 31 Iowa Acts, First Extraordinary Session, chapter 2, section 94,
10 32 is amended by adding the following new paragraph:

10 33 NEW PARAGRAPH. c. For purposes of this definition, the
10 34 sales price from a rental or lease includes rent, royalties,
10 35 and copyright and license fees.

11 1 Sec. 24. Section 423.2, subsection 6, unnumbered paragraph
11 2 2, as enacted by 2003 Iowa Acts, First Extraordinary Session,
11 3 chapter 2, section 95, is amended to read as follows:

11 4 ~~For the purposes of this subsection, the sales price of a~~
11 5 ~~lease or rental includes rents, royalties, and copyright and~~
11 6 ~~license fees.~~ For the purposes of this subsection, "financial
11 7 institutions" means all national banks, federally chartered
11 8 savings and loan associations, federally chartered savings
11 9 banks, federally chartered credit unions, banks organized
11 10 under chapter 524, savings and loan associations and savings
11 11 banks organized under chapter 534, and credit unions organized
11 12 under chapter 533.

11 13 Sec. 25. Section 423.2, as enacted by 2003 Iowa Acts,
11 14 First Extraordinary Session, chapter 2, section 95, is amended
11 15 by adding the following new subsection:

11 16 NEW SUBSECTION. 11. All taxes collected under this
11 17 chapter by a retailer or any individual are deemed to be held
11 18 in trust for the state of Iowa.

11 19 Sec. 26. Section 423.3, subsections 33 and 82, as enacted
11 20 by 2003 Iowa Acts, First Extraordinary Session, chapter 2,
11 21 section 96, are amended to read as follows:

11 22 33. a. The sales price of mementos and other items
11 23 relating to Iowa history and historic sites, the general
11 24 assembly, and the state capitol, sold by the legislative
11 25 ~~service bureau services agency~~ and its legislative information
11 26 office on the premises of property under the control of the
11 27 legislative council, at the state capitol, and on other state

11 28 property.
11 29 b. The legislative services agency is not a retailer under
11 30 this chapter and the sale of items or provision of services by
11 31 the legislative services agency is not a retail sale under
11 32 this chapter and is exempt from the sales tax.
11 33 82. a. The sales price from the sale or rental of core
11 34 and making, mold making, equipment and sand handling machinery
11 35 and equipment, including replacement parts, directly and
12 1 primarily used in the mold making process by a foundry.
12 2 b. The sales price from the sale of fuel used in creating
12 3 heat, power, steam, or for generating electric current, or
12 4 from the sale of electricity, consumed by core making, mold
12 5 making, and sand handling machinery and equipment used
12 6 directly and primarily in the mold-making process by a
12 7 foundry.
12 8 c. The sales price from the furnishing of the design and
12 9 installation, including electrical and electronic
12 10 installation, of core making, mold making, and sand handling
12 11 machinery and equipment used directly and primarily in the
12 12 mold-making process by a foundry.
12 13 Sec. 27. Section 423.3, as enacted by 2003 Iowa Acts,
12 14 First Extraordinary Session, chapter 2, section 96, is amended
12 15 by adding the following new subsection:
12 16 NEW SUBSECTION. 43A. The sales price from the sale of
12 17 wine which is shipped from outside Iowa and which meets the
12 18 requirements for sales and use tax exemption pursuant to
12 19 section 123.187.
12 20 Sec. 28. Section 424.3, subsection 1, Code 2003, is
12 21 amended by adding the following new unnumbered paragraph:
12 22 NEW UNNUMBERED PARAGRAPH. All taxes or charges collected
12 23 under this chapter by a depositor or any individual from a
12 24 receiver or any other individual are considered to be held in
12 25 trust on behalf of the state of Iowa.
12 26 Sec. 29. Section 441.21, subsection 2, Code Supplement
12 27 2003, is amended to read as follows:
12 28 2. In the event market value of the property being
12 29 assessed cannot be readily established in the foregoing
12 30 manner, then the assessor may determine the value of the
12 31 property using the other uniform and recognized appraisal
12 32 methods including its productive and earning capacity, if any,
12 33 industrial conditions, its cost, physical and functional
12 34 depreciation and obsolescence and replacement cost, and all
12 35 other factors which would assist in determining the fair and
13 1 reasonable market value of the property but the actual value
13 2 shall not be determined by use of only one such factor. The
13 3 following shall not be taken into consideration: Special
13 4 value or use value of the property to its present owner, and
13 5 the good will or value of a business which uses the property
13 6 as distinguished from the value of the property as property.
13 7 However, in assessing property that is rented or leased to
13 8 low-income individuals and families as authorized by section
13 9 42 of the Internal Revenue Code, as amended, and which section
13 10 limits the amount that the individual or family pays for the
13 11 rental or lease of units in the property, the assessor shall
13 12 use the productive and earning capacity from the actual rents
13 13 received as a method of appraisal and shall take into account
13 14 the extent to which that use and limitation reduces the market
13 15 value of the property. The assessor shall not consider any
13 16 tax credit equity or other subsidized financing as income
13 17 provided to the property in determining the assessed value.
13 18 The property owner shall notify the assessor when property is
13 19 withdrawn from section 42 eligibility under the Internal
13 20 Revenue Code. The property shall not be subject to section 42
13 21 assessment procedures for the assessment year for which
13 22 section 42 eligibility is withdrawn. This notification must
13 23 be provided to the assessor no later than March 1 of the
13 24 assessment year or the owner will be subject to a penalty of
13 25 five hundred dollars for that assessment year. The penalty
13 26 shall be collected at the same time and in the same manner as
13 27 regular property taxes. Upon adoption of uniform rules by the
13 28 revenue department or succeeding authority covering
13 29 assessments and valuations of such properties, said valuation
13 30 on such properties shall be determined in accordance therewith
13 31 for assessment purposes to assure uniformity, but such rules
13 32 shall not be inconsistent with or change the foregoing means
13 33 of determining the actual, market, taxable and assessed
13 34 values.
13 35 Sec. 30. Section 450.22, Code 2003, is amended to read as
14 1 follows:
14 2 450.22 ADMINISTRATION AVOIDED == INHERITANCE TAX DUTIES
14 3 REQUIRED.

14 4 1. When the heirs or persons entitled to inherit the
14 5 property of an estate subject to tax under this chapter desire
14 6 to avoid the appointment of a personal representative as
14 7 provided in section 450.21, and in all instances where real
14 8 estate is involved and there are no regular probate
14 9 proceedings, they or one of them shall file under oath the
14 10 inventories required by section 633.361 and the required
14 11 reports, perform all the duties required by this chapter of
14 12 the personal representative, and file the inheritance tax
14 13 return.

14 14 2. However, this section does not apply and a return is
14 15 not required to be filed even though real estate is part of
14 16 the assets subject to tax under this chapter, if all of the
14 17 assets are held in joint tenancy with right of survivorship
14 18 between husband and wife alone, or if the estate exclusively
14 19 consists of property held in joint tenancy with the right of
14 20 survivorship solely by the decedent and any individuals listed
14 21 in section 450.9 as individuals that are entirely exempt from
14 22 Iowa inheritance tax and the estate does not have a federal
14 23 estate tax obligation.

14 24 3. However, this section does not apply and a return is
14 25 not required to be filed, even though real estate is involved,
14 26 if the estate does not have a federal estate tax filing
14 27 obligation and if all the estate's assets are described in any
14 28 of the following categories:

14 29 a. Assets held in joint tenancy with right of survivorship
14 30 between husband and wife alone.

14 31 b. Assets held in joint tenancy with right of survivorship
14 32 solely between the decedent and individuals listed in section
14 33 450.9 as individuals that are entirely exempt from Iowa
14 34 inheritance tax.

14 35 c. Assets passing by beneficiary designation, pursuant to
15 1 a trust intended to pass the decedent's property at death or
15 2 through any other nonprobate transfer solely to individuals
15 3 listed in section 450.9 as individuals that are entirely
15 4 exempt from Iowa inheritance tax.

15 5 This subsection does not apply to interests in an asset or
15 6 assets that pass to both an individual listed in section 450.9
15 7 and to that individual's spouse.

15 8 4. If a return is not required to be filed pursuant to
15 9 subsection 3, and if real estate is involved, one of the
15 10 individuals with an interest in, or succeeding to an interest
15 11 in, the real estate shall file an affidavit in the county in
15 12 which the real estate is located setting forth the legal
15 13 description of the real estate and the fact that an
15 14 inheritance tax return is not required pursuant to subsection
15 15 3. If a false affidavit is filed, the affiant and the
15 16 personal representative shall be jointly and severally liable
15 17 for any tax, penalty, and interest that may have been due.
15 18 Any otherwise applicable statute of limitations on the
15 19 assessment and collection of the tax, penalty, and interest
15 20 shall not apply.

15 21 5. When this section applies, proceedings for the
15 22 collection of the tax when a personal representative is not
15 23 appointed shall conform as nearly as possible to proceedings
15 24 under this chapter in other cases.

15 25 Sec. 31. Section 450.37, subsection 2, paragraph a, Code
15 26 Supplement 2003, is amended to read as follows:

15 27 a. If an agreement has not been reached on the fair market
15 28 value of real property in the ordinary course of trade, the
15 29 director of revenue has ~~thirty~~ sixty days after the return is
15 30 filed to request an appraisal under section 450.27. If an
15 31 appraisal request is not made within the ~~thirty-day~~ sixty-day
15 32 period, the value listed on the return is the agreed value of
15 33 the real property.

15 34 Sec. 32. Section 450.53, subsections 1 and 2, Code
15 35 Supplement 2003, are amended to read as follows:

16 1 1. a. All personal representatives, except guardians and
16 2 conservators, and other persons charged with the management or
16 3 settlement of any estate or trust from which a tax is due
16 4 under this chapter, shall file an inheritance tax return,
16 5 within the time limits set by section 450.6, with a copy of
16 6 any federal estate tax return and other documents required by
16 7 the director which may reasonably tend to prove the amount of
16 8 tax due, and at the time of filing, shall pay to the
16 9 department of revenue the amount of the tax due from any
16 10 devisee, grantee, donee, heir, or beneficiary of the decedent,
16 11 except in cases where payment of the tax is deferred until the
16 12 determination of a prior estate. The owner of the future
16 13 interest shall file a supplemental inheritance tax return and
16 14 pay to the department of revenue the tax due within the time

16 15 limits set in this chapter. The inheritance tax returns shall
16 16 be in the form prescribed by the director.

16 17 b. Notwithstanding paragraph "a", an inheritance tax
16 18 return is not required to be filed if the estate does not have
16 19 a federal estate tax filing obligation and if all the estate
16 20 or trust assets pass solely to individuals listed in section
16 21 450.9 as individuals that are entirely exempt from Iowa
16 22 inheritance tax. This paragraph is not applicable if
16 23 interests in the asset passes to both an individual listed in
16 24 section 450.9 and to that individual's spouse.

16 25 2. a. A person in possession of assets to be reported for
16 26 purposes of taxation, including a personal representative or
16 27 trustee, who willfully makes a false or fraudulent return, or
16 28 willfully fails to pay the tax, supply the information, make,
16 29 sign, or file the required return within the time required by
16 30 law, is guilty of a fraudulent practice. This paragraph does
16 31 not apply if a return is not required to be filed pursuant to
16 32 subsection 1, paragraph "b".

16 33 b. If a false affidavit is filed, the affiant and the
16 34 personal representative shall be jointly and severally liable
16 35 for any tax, penalty, and interest that may have been due.
17 1 Any otherwise applicable statute of limitations on the
17 2 assessment and collection of the tax, penalty, and interest
17 3 shall not apply.

17 4 Sec. 33. Section 450.58, Code Supplement 2003, is amended
17 5 to read as follows:

17 6 450.58 FINAL SETTLEMENT TO SHOW PAYMENT.

17 7 The 1. Except as provided in subsection 2, the final
17 8 settlement of the account of a personal representative shall
17 9 not be accepted or allowed unless it shows, and the court
17 10 finds, that all taxes imposed by this chapter upon any
17 11 property or interest in property that are made payable by the
17 12 personal representative and to be settled by the account, have
17 13 been paid, and that the receipt of the department of revenue
17 14 for the tax has been obtained as provided in section 450.64.

17 15 2. If an inheritance tax return is not required to be
17 16 filed pursuant to section 450.53, subsection 1, paragraph "b",
17 17 the personal representative's final settlement of account need
17 18 not contain an inheritance tax receipt from the department,
17 19 but shall, instead, contain the personal representative's
17 20 statement, under oath, that an inheritance tax return is not
17 21 required to be filed pursuant to section 450.53, subsection 1,
17 22 paragraph "b". If a false affidavit is filed, the affiant and
17 23 the personal representative shall be jointly and severally
17 24 liable for any tax, penalty, and interest that may have been
17 25 due. Any otherwise applicable statute of limitations on the
17 26 assessment and collection of the tax, penalty, and interest
17 27 shall not apply.

17 28 3. Any order contravening any provision of this section is
17 29 void.

17 30 Sec. 34. Section 450.94, subsection 2, Code Supplement
17 31 2003, is amended to read as follows:

17 32 2. The Unless a return is not required to be filed
17 33 pursuant to section 450.22, subsection 3, or section 450.53,
17 34 subsection 1, paragraph "b", the taxpayer shall file an

17 35 inheritance tax return on forms to be prescribed by the
18 1 director of revenue on or before the last day of the ninth
18 2 month after the death of the decedent. When an inheritance
18 3 tax return is filed, the department shall examine it and
18 4 determine the correct amount of tax. If the amount paid is
18 5 less than the correct amount due, the department shall notify
18 6 the taxpayer of the total amount due together with any penalty
18 7 and interest which shall be a sum certain if paid on or before
18 8 the last day of the month in which the notice is dated, or on
18 9 or before the last day of the following month if the notice is
18 10 dated after the twentieth day of a month and before the first
18 11 day of the following month.

18 12 Sec. 35. Section 452A.3, Code 2003, is amended by adding
18 13 the following new subsection:

18 14 NEW SUBSECTION. 7. All excise taxes collected under this
18 15 chapter by a supplier, restrictive supplier, importer, dealer,
18 16 blender, user, or any individual are deemed to be held in
18 17 trust for the state or Iowa.

18 18 Sec. 36. Section 453A.6, Code 2003, is amended by adding
18 19 the following new subsection:

18 20 NEW SUBSECTION. 6. All excise taxes collected under this
18 21 division by a distributor, manufacturer, or any individual are
18 22 deemed to be held in trust for the state of Iowa.

18 23 Sec. 37. Section 453A.11, Code 2003, is amended to read as
18 24 follows:

18 25 453A.11 CANCELLATION OF STAMPS.

18 26 Stamps affixed to a package of cigarettes shall not be
18 27 canceled by any letter, numeral, or other mark of
18 28 identification or otherwise mutilated in any manner that will
18 29 prevent or hinder the department in making an examination as
18 30 to the genuineness of the stamp. However, the director may
18 31 require such cancellation of the tax stamps affixed to
18 32 packages of cigarettes which is necessary to carry out
18 33 properly the provisions of this division. A person who
18 34 cancels or causes the cancellation of stamps in violation of
18 35 this section shall be considered in possession of unstamped
19 1 cigarettes and is subject to the penalty provided in section
19 2 453A.31, subsection 1.

19 3 Sec. 38. Section 453A.15, subsection 1, Code 2003, is
19 4 amended to read as follows:

19 5 1. The director may prescribe the forms necessary for the
19 6 efficient administration of this division and may require
19 7 uniform books and records to be used and kept by each permit
19 8 holder or other person as deemed necessary. The director may
19 9 also require each permit holder or other person to keep and
19 10 retain in the director's possession evidence on prescribed
19 11 forms of all transactions involving the purchase and sale of
19 12 cigarettes or the purchase and use of stamps. The evidence
19 13 shall be kept for a period of ~~two~~ three years from the date of
19 14 each transaction, for the inspection at all times by the
19 15 department.

19 16 Sec. 39. Section 453A.28, Code 2003, is amended to read as
19 17 follows:

19 18 453A.28 ASSESSMENT OF TAX BY DEPARTMENT == INTEREST ==
19 19 PENALTY.

19 20 If after any audit, examination of records, or other
19 21 investigation the department finds that any person has sold
19 22 cigarettes without stamps affixed or that any person
19 23 responsible for paying the tax has not done so as required by
19 24 this division, the department shall fix and determine the
19 25 amount of tax due, and shall assess the tax against the
19 26 person, together with a penalty as provided in section 421.27.
19 27 The taxpayer shall pay interest on the tax or additional tax
19 28 at the rate determined under section 421.7 counting each
19 29 fraction of a month as an entire month, computed from the date
19 30 the tax was due. If any person fails to furnish evidence
19 31 satisfactory to the director showing purchases of sufficient
19 32 stamps to stamp unstamped cigarettes purchased by the person,
19 33 the presumption shall be that the cigarettes were sold without
19 34 the proper stamps affixed. Within ~~two~~ three years after the
19 35 report is filed or within ~~two~~ three years after the report
20 1 became due, whichever is later, the department shall examine
20 2 the report and determine the correct amount of tax. The
20 3 period for examination and determination of the correct amount
20 4 of tax is unlimited in the case of a false or fraudulent
20 5 report made with the intent to evade tax, or in the case of a
20 6 failure to file a report, or if a person purchases or is in
20 7 possession of unstamped cigarettes.

20 8 The ~~two-year~~ three-year period of limitation may be
20 9 extended by a taxpayer by signing a waiver agreement form to
20 10 be provided by the department. The agreement must stipulate
20 11 the period of extension and the tax period to which the
20 12 extension applies. The agreement must also provide that a
20 13 claim for refund may be filed by the taxpayer at any time
20 14 during the period of extension.

20 15 Sec. 40. Section 453A.31, subsection 1, paragraphs c, d,
20 16 and e, Code 2003, are amended to read as follows:

20 17 c. A ~~one thousand twenty-five~~ one thousand dollar per pack penalty for
20 18 the first violation if a person is in possession of more than
20 19 two thousand unstamped cigarettes.

20 20 d. For a second violation within ~~two~~ three years of the
20 21 first violation, the penalty is four hundred dollars if a
20 22 person is in possession of more than forty but not more than
20 23 four hundred unstamped cigarettes; one thousand dollars if a
20 24 person is in possession of more than four hundred but not more
20 25 than two thousand unstamped cigarettes; and ~~two thousand~~
20 26 thirty-five dollars per pack if a person is in possession of
20 27 more than two thousand unstamped cigarettes.

20 28 e. For a third or subsequent violation within ~~two~~ three
20 29 years of the first violation, the penalty is six hundred
20 30 dollars if a person is in possession of more than forty but
20 31 not more than four hundred unstamped cigarettes; one thousand
20 32 five hundred dollars if a person is in possession of more than
20 33 four hundred but not more than two thousand unstamped
20 34 cigarettes; and ~~three thousand~~ forty-five dollars per pack if
20 35 a person is in possession of more than two thousand unstamped
21 1 cigarettes.

21 2 Sec. 41. Section 453A.31, subsection 2, paragraphs b and
21 3 c, Code 2003, are amended to read as follows:
21 4 b. A five hundred dollar penalty for a second violation
21 5 within ~~two~~ three years of the first violation.
21 6 c. A thousand dollar penalty for a third or subsequent
21 7 violation within ~~two~~ three years of the first violation.
21 8 Sec. 42. Section 453A.32, subsections 1, 4, and 5, Code
21 9 2003, are amended to read as follows:
21 10 1. All cigarettes on which taxes are imposed or required
21 11 to be imposed by this division, which are found in the
21 12 possession or custody, or within the control of any person,
21 13 for the purpose of being sold, distributed, or removed by the
21 14 person in violation of this division, and all cigarettes which
21 15 are removed ~~or are~~, stored, transported, deposited, or
21 16 concealed in any place with intent to avoid payment of taxes
21 17 without the proper taxes paid, and any automobile, truck,
21 18 boat, conveyance, or other vehicle whatsoever, used in the
21 19 removal, storage, deposit, concealment, or transportation of
21 20 cigarettes for such the purpose of avoiding the payment of the
21 21 proper tax, and all equipment or other tangible personal
21 22 property incident to and used for such the purpose of avoiding
21 23 the payment of the proper tax, found in the place, building,
21 24 or vehicle where cigarettes are found, and all counterfeit
21 25 cigarettes may be seized by the department, with or without
21 26 process and shall be from the time of the seizure forfeited to
21 27 the state of Iowa. A proceeding in the nature of a proceeding
21 28 in rem shall be filed in a court of competent jurisdiction in
21 29 the county of seizure to maintain the seizure and declare and
21 30 perfect the forfeiture. All cigarettes, counterfeit
21 31 cigarettes, vehicles, and property seized, remaining in the
21 32 possession or custody of the department, sheriff or other
21 33 officer for forfeiture or other disposition as provided by
21 34 law, are not subject to replevin.
21 35 4. In the event final judgment is rendered in the
22 1 forfeiture proceedings aforesaid, maintaining the seizure, and
22 2 declaring and perfecting the forfeiture of said seized
22 3 property, the court shall order and decree the sale ~~thereof of~~
22 4 the seized property, other than the counterfeit cigarettes, to
22 5 the highest bidder, by the sheriff at public auction in the
22 6 county of seizure after notice is given in the manner provided
22 7 in the case of the sale of personal property under execution,
22 8 and the proceeds of such sale, less expense of seizure and
22 9 court costs, shall be paid into the state treasury.
22 10 Counterfeit cigarettes shall be destroyed or disposed of in a
22 11 manner determined by the director.
22 12 5. In the event the cigarettes seized ~~hereunder~~ and sought
22 13 to be sold upon forfeiture ~~shall be~~ are unstamped, the
22 14 cigarettes shall be sold by the director or the director's
22 15 designee to the highest bidder among the licensed permitted
22 16 distributors in this state after written notice has been
22 17 mailed to all such distributors. If there is no bidder, or in
22 18 the opinion of the director the quantity of cigarettes to be
22 19 sold is insufficient or for any other reason such disposition
22 20 of the cigarettes is impractical, the cigarettes shall be
22 21 destroyed or disposed of in a manner as determined by the
22 22 director. ~~The proceeds of such from the sales shall be paid~~
22 23 into the state treasury.
22 24 Sec. 43. Section 453A.36, Code 2003, is amended by adding
22 25 the following new subsection:
22 26 NEW SUBSECTION. 9. a. It is unlawful for a person to
22 27 ship or import into this state or to offer for sale, sell,
22 28 distribute, transport, or possess counterfeit cigarettes,
22 29 knowing such cigarettes are counterfeit cigarettes or having
22 30 reasonable cause to believe that such cigarettes are
22 31 counterfeit cigarettes.
22 32 b. For purposes of this subsection and section 453A.32,
22 33 "counterfeit cigarettes" means cigarettes, packages of
22 34 cigarettes, cartons of cigarettes or other containers of
22 35 cigarettes with a label, trademark, service mark, trade name,
23 1 device, design, or word adopted or used by a cigarette
23 2 manufacturer to identify its product that is false or used
23 3 without authority of the cigarette manufacturer.
23 4 Sec. 44. NEW SECTION. 453A.39 TOBACCO PRODUCT AND
23 5 CIGARETTE SAMPLES == RESTRICTIONS == ADMINISTRATION.
23 6 1. A manufacturer, distributor, wholesaler, retailer, or
23 7 distributing agent, or agent thereof, shall not give away
23 8 cigarettes or tobacco products at any time in connection with
23 9 the manufacturer's, distributor's, wholesaler's, retailer's,
23 10 or distributing agent's business or for promotion of the
23 11 business or product, except as provided in subsection 2.
23 12 2. a. All cigarette samples shall be shipped only to a

23 13 distributor that has a permit to stamp cigarettes or little
23 14 cigars with Iowa tax. All cigarette samples must have a
23 15 cigarette stamp. The manufacturer shipping samples under this
23 16 section shall send an affidavit to the director stating the
23 17 shipment information, including the date shipped, quantity,
23 18 and to whom the samples were shipped. The distributor
23 19 receiving the shipment shall send an affidavit to the director
23 20 stating the shipment information, including the date shipped,
23 21 quantity, and from whom the samples were shipped. These
23 22 affidavits shall be duly notarized and submitted to the
23 23 director at the time of shipment and receipt of the samples.
23 24 The distributor shall pay the tax on samples by separate
23 25 remittance along with the affidavit.

23 26 b. A manufacturer, distributor, wholesaler, retailer, or
23 27 distributing agent or agent thereof shall not give away any
23 28 cigarettes or tobacco products to any person under eighteen
23 29 years of age, or within five hundred feet of any playground,
23 30 school, high school, or other facility when such facility is
23 31 being used primarily by persons under age eighteen for
23 32 recreational, educational, or other purposes.

23 33 c. Proof of age shall be required if a reasonable person
23 34 could conclude on the basis of outward appearance that a
23 35 prospective recipient of a sample may be under eighteen years
24 1 of age.

24 2 Sec. 45. Section 453A.43, Code 2003, is amended by adding
24 3 the following new subsection:

24 4 NEW SUBSECTION. 6. All excise taxes collected under this
24 5 chapter by a distributor or any individual are deemed to be
24 6 held in trust for the state of Iowa.

24 7 Sec. 46. Section 453A.45, subsection 1, unnumbered
24 8 paragraph 2, Code 2003, is amended to read as follows:

24 9 When a licensed distributor sells tobacco products
24 10 exclusively to the ultimate consumer at the address given in
24 11 the license, an invoice of those sales is not required, but
24 12 itemized invoices shall be made of all tobacco products
24 13 transferred to other retail outlets owned or controlled by
24 14 that licensed distributor. All books, records and other
24 15 papers and documents required by this subdivision to be kept
24 16 shall be preserved for a period of at least ~~two~~ three years
24 17 after the date of the documents or the date of the entries
24 18 appearing in the records, unless the director, in writing,
24 19 authorized their destruction or disposal at an earlier date.
24 20 At any time during usual business hours, the director, or the
24 21 director's duly authorized agents or employees, may enter any
24 22 place of business of a distributor, without a search warrant,
24 23 and inspect the premises, the records required to be kept
24 24 under this subdivision, and the tobacco products contained
24 25 therein, to determine if all the provisions of this division
24 26 are being fully complied with. If the director, or any such
24 27 agent or employee, is denied free access or is hindered or
24 28 interfered with in making the examination, the license of the
24 29 distributor at that premises is subject to revocation by the
24 30 director.

24 31 Sec. 47. Section 453A.45, subsections 2, 3, and 4, Code
24 32 2003, are amended to read as follows:

24 33 2. Every person who sells tobacco products to persons
24 34 other than the ultimate consumer shall render with each sale
24 35 itemized invoices showing the seller's name and address, the
25 1 purchaser's name and address, the date of sale, and all prices
25 2 and discounts. The person shall preserve legible copies of
25 3 all ~~such~~ these invoices for ~~two~~ three years from the date of
25 4 sale.

25 5 3. Every retailer and subjobber shall procure itemized
25 6 invoices of all tobacco products purchased. The invoices
25 7 shall show the name and address of the seller and the date of
25 8 purchase. The retailer and subjobber shall preserve a legible
25 9 copy of each ~~such~~ invoice for ~~two~~ three years from the date of
25 10 purchase. Invoices shall be available for inspection by the
25 11 director or the director's authorized agents or employees at
25 12 the retailer's or subjobber's place of business.

25 13 4. Records of all deliveries or shipments of tobacco
25 14 products from any public warehouse of first destination in
25 15 this state which is subject to the provisions of and licensed
25 16 under chapter 554 shall be kept by the warehouse and be
25 17 available to the director for inspection. They shall show the
25 18 name and address of the consignee, the date, the quantity of
25 19 tobacco products delivered, and such other information as the
25 20 commissioner may require. These records shall be preserved
25 21 for ~~two~~ three years from the date of delivery of the tobacco
25 22 products.

25 23 Sec. 48. Section 453A.46, subsections 1 and 6, Code 2003,

25 24 are amended to read as follows:

25 25 1. On or before the twentieth day of each calendar month
25 26 every distributor with a place of business in this state shall
25 27 file a return with the director showing the quantity and
25 28 wholesale sales price of each tobacco product brought, or
25 29 caused to be brought, into this state for sale; and made,
25 30 manufactured, or fabricated in this state for sale in this
25 31 state, during the preceding calendar month. Every licensed
25 32 distributor outside this state shall in like manner file a
25 33 return showing the quantity and wholesale sales price of each
25 34 tobacco product shipped or transported to retailers in this
25 35 state to be sold by those retailers, during the preceding
26 1 calendar month. Returns shall be made upon forms furnished
26 2 and prescribed by the director and shall contain other
26 3 information as the director may require. Each return shall be
26 4 accompanied by a remittance for the full tax liability shown
26 5 on the return, less a discount as fixed by the director not to
26 6 exceed five percent of the tax. Within ~~two~~ three years after
26 7 the return is filed or within ~~two~~ three years after the return
26 8 became due, whichever is later, the department shall examine
26 9 it, determine the correct amount of tax, and assess the tax
26 10 against the taxpayer for any deficiency. The period for
26 11 examination and determination of the correct amount of tax is
26 12 unlimited in the case of a false or fraudulent return made
26 13 with the intent to evade tax, or in the case of a failure to
26 14 file a return.

26 15 The ~~two-year~~ three-year period of limitation may be
26 16 extended by a taxpayer by signing a waiver agreement form to
26 17 be provided by the department. The agreement must stipulate
26 18 the period of extension and the tax period to which the
26 19 extension applies. The agreement must also provide that a
26 20 claim for refund may be filed by the taxpayer at any time
26 21 during the period of extension.

26 22 6. On or before the twentieth day of each calendar month,
26 23 every consumer who, during the preceding calendar month, has
26 24 acquired title to or possession of tobacco products for use or
26 25 storage in this state, upon which tobacco products the tax
26 26 imposed by section 453A.43 has not been paid, shall file a
26 27 return with the director showing the quantity of tobacco
26 28 products so acquired. The return shall be made upon a form
26 29 furnished and prescribed by the director, and shall contain
26 30 other information as the director may require. The return
26 31 shall be accompanied by a remittance for the full unpaid tax
26 32 liability shown by it. Within ~~two~~ three years after the
26 33 return is filed or within ~~two~~ three years after the return
26 34 became due, whichever is later, the department shall examine
26 35 it, determine the correct amount of tax, and assess the tax
27 1 against the taxpayer for any deficiency. The period for
27 2 examination and determination of the correct amount of tax is
27 3 unlimited in the case of a false or fraudulent return made
27 4 with the intent to evade tax, or in the case of a failure to
27 5 file a return.

27 6 Sec. 49. Section 453B.3, Code 2003, is amended by adding
27 7 the following new unnumbered paragraph:

27 8 NEW UNNUMBERED PARAGRAPH. All excise taxes collected under
27 9 this chapter by a dealer or any individual are deemed to be
27 10 held in trust for the state of Iowa.

27 11 Sec. 50. Section 633.479, unnumbered paragraph 2, Code
27 12 Supplement 2003, is amended to read as follows:

27 13 An order approving the final report and discharging the
27 14 personal representative shall not be required if all
27 15 distributees otherwise entitled to notice are adults, under no
27 16 legal disability, have signed waivers of notice as provided in
27 17 section 633.478, have signed statements of consent agreeing
27 18 that the prayer of the final report shall constitute an order
27 19 approving the final report and discharging the personal
27 20 representative, and if the statements of consent are dated not
27 21 more than thirty days prior to the date of the final report,
27 22 and if compliance with sections 422.27 and 450.58 have been
27 23 fulfilled and receipts, sworn statements, and certificates, as
27 24 any of these that are required, are on file. In those

27 25 instances final order shall not be required and the prayer of
27 26 the final report shall be considered as granted and shall have
27 27 the same force and effect as an order of discharge of the
27 28 personal representative and an order approving the final
27 29 report.

27 30 Sec. 51. Sections 2A.8 and 48A.24, Code Supplement 2003,
27 31 are repealed.

27 32 Sec. 52. REFUNDS. Refunds of taxes, interest, or
27 33 penalties which arise from claims resulting from the amendment
27 34 to section 422.42, subsection 6, in this Act, for the

27 35 noninclusion of trade discounts in computing gross receipts on
28 1 sales occurring between January 1, 1997, and the effective
28 2 date of the section amending section 422.42, subsection 6, in
28 3 this Act, shall be limited to twenty=five thousand dollars in
28 4 the aggregate and shall not be allowed unless refund claims
28 5 are filed prior to October 1, 2004, notwithstanding any other
28 6 provision of law. If the amount of claims totals more than
28 7 twenty=five thousand dollars in the aggregate, the department
28 8 of revenue shall prorate the twenty=five thousand dollars
28 9 among all claimants in relation to the amounts of the
28 10 claimants' valid claims.

28 11 Sec. 53. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
28 12 PROVISIONS.

28 13 1. The section amending section 422.42, subsection 6, in
28 14 this Act, being deemed of immediate importance, takes effect
28 15 upon enactment and applies retroactively to January 1, 1997.

28 16 2. The section amending section 422.42, subsection 6, in
28 17 this Act is void on and after July 1, 2004.

28 18 3. The section providing for sales and use tax refunds in
28 19 this Act ceases to apply to any refund claims filed after
28 20 September 30, 2004.

28 21 SF 2296
28 22 mg/cc/26